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CONCORD, N.H.

1951

Dec. 4

Mr. Ralph G. Carpenter, 2nd, Director
Fish and Game Department
State House Annex

Dear Sir:

I have your letter of November 14, 1951 concerning the recently enacted Clam Law (Laws 1951, c. 214).

You ask, first, whether, under this law a person having only a regular hunting and fishing license may take clams. From an examination of the statute it would appear to me that a special license or permit was intended by the Legislature. This conclusion arises from a consideration of R. L. c. 247, the general licensing statute, wherein no mention of clams is made and also from an examination of the statute which was amended by chapter 214. Under R. L. c. 245, s. 63, prior to amendment, towns were authorized to issue permits for the taking of clams; it is believed that the intention of chapter 214 was to confer this licensing power upon the Fish and Game Commission in addition to the power of the Commission to issue licenses under chapter 247.

I am unable to be of assistance to you in connection with your second question; that referring to the "pollution line" as that phrase appears in chapter 214. I have discussed the matter with the Water Pollution Commission and am advised that no such "line" has been established by that body. Under these circumstances reference must be had to local understanding in the area concerned. If a certain point or line is generally accepted by the inhabitants of the area as the pollution line, you may consider such line as indicative of the legislative intent. It is also suggested that you may wish to discuss the matter with the proponents of the law in the Legislature to determine what they believed to be the meaning of the phrase.

Very truly yours,

WEW:RM

Warren E. Waters
Assistant Attorney General